1973. The Final Rule, establishing procedures relating to health care for handicapped infants, is codified at 45 CFR 84.55. The Supreme Court affirmed a lower court decision that invalidated and enjoined enforcement of paragraphs (b)–(e) of § 84.55 by the Department.

The Department is adding a statement clarifying the effect of the Supreme Court decision on certain provisions set forth under this section.

FOR FURTHER INFORMATION CONTACT: Marcella Haynes, Division of Policy and Special Projects, (202) 245–6671.

SUPPLEMENTARY INFORMATION: This document clarifies the status of 45 CFR 84.55(b)–(e) of the Department's regulations under section 504 of the Rehabilitation Act of 1973. 45 CFR 84.55(b)–(e) establish certain procedures regarding health care for handicapped infants. After these regulations were promulgated on January 12, 1984, they were the subject of litigation in which a United States District Court declared them invalid and enjoined their enforcement. On June 9, 1986, in the case of *Bowen* v. *American Hospital Association*, _____ U.S. _____, 106 S. Ct. 2101 (1986), the Supreme Court upheld the District Court, 585 F. Supp. 541 (S.D.N.Y. 1984). In order to clarify the status of these provisions, the Department is adding a statement regarding the litigation and its outcome.

PART 84—[AMENDED]

Accordingly, the Secretary is adding a clarifying statement to 45 CFR 84.55 to read as follows:

§ 84.55 Procedures relating to health care for handicapped infants.

Note.—The mandatory provisions set forth in paragraphs (b)–(e) inclusive of this section are subject to an injunction prohibiting their enforcement. In *Bowen* v. *American Hospital Association*, _____ U.S. _____, 106 S. Ct. 2101 (1986), the Supreme Court upheld the action of a United States District Court, 585 F. Supp. 541 (S.D.N.Y. 1984), declaring invalid and enjoining enforcement of provisions under this section, promulgated Jan. 12, 1984.

Dated: January 21, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–1867 Filed 1–29–87; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–215]

Organization and Delegation of Powers and Duties

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment revises the reservation of authority to the Secretary or the Secretary's delegatee within the Office of the Secretary with respect to the withholding or suspension of Federal Aid highway funds on a State-wide basis. This revision is necessary to eliminate the possibility an possible ambiguity regarding the authority of the Administrators.

DATE: The effective date of this amendment is January 22, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 366–9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

The Secretary has determined that an existing reservation of authority contained in Part 1 of 49 CFR should be amended. The reservation indicates that the withholding or suspension of Federal-aid highway funds on a State-wide basis and the waiver or compromise of such withholding or suspension is reserved to the Secretary or the Secretary's delegatee within the Office of the Secretary. Specific delegations to the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration enable them to take all necessary actions with respect to the 55 mph statutory sections, 23 U.S.C. 141 and 154, which currently are specifically delegated to them in 49 CFR 1.48(b) (23) and (28) and 49 CFR 1.50(i) (1) and (2). The responsibilities under those statutory and regulatory sections can involve the withholding of up to ten percent of a state's Federal-aid non-interstate highway funds.

To eliminate any possibile ambiguity regarding the authority of the Administrators, the specific reservation is being amended to ensure that the Administrators can fully address the above statutory sections, with respect to the 55 mph program.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Subtitle A of 49 CFR is amended as set forth below:

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.44 is amended by revising paragraph (j) to read as follows:

§ 1.44 [Amended]

* * * * *

(j) *Withholding of funds.* Withholding or suspension of Federal-Aid Highway funds on a state-wide basis and the waiver or compromise of such withholding or suspension, except for the administration of 23 U.S.C. 141 and 154, which are specifically delegated in § 1.48(b) (23) and (28) and in § 1.50(i) (1) and (2).

* * * * *

Issued in Washington, DC, on January 22, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87–1768 Filed 1–29–87; 8:45 am]

BILLING CODE 4910–62–M

Proposed Rules

Federal Register
Vol. 52, No. 20
Friday, January 30, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, and 449

[Docket No. 3888S]

General Amendment; Various Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend the Grain Sorghum, Rice, Peanut, Sunflower, Sugar Beet, Soybean, Corn, Dry Bean, Fresh Market Tomato, Pepper, Popcorn, and Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, and 449, respectively), effective for the 1988 and succeeding crop years. The intended effect of this rule is to: (1) provide that premium may be deducted from a replant payment; and (2) provide that the original liability is reinstated on the replanted crop. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than March 31, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Department Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under the procedures. The sunset review dates established for the regulations affected by this action remain unchanged.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environment Assessment nor an Environmental Impact Statement is needed.

FCIC proposes to amend the Grain Sorghum, Rice, Peanut, Sunflower, Sugar Beet, Soybean, Corn, Dry Bean, Fresh Market Tomator, Pepper, Popcorn, and Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, 449, respectively), effective for the 1988 and succeeding crop years to allow the Corporation to: (1) deduct premium from a replant payment without regard to billing dates; and (2) reinstate full liability on the replanted crop.

Beginning with the 1981 crop year, replant payment provisions were initiated by the Corporation on several crops to be limited to the actual cost of replanting. The replant payment was considered by the Corporation to be an indemnity payment and the amount of premium owed was deducted from the replant payment in the same manner as it was deducted from an indemnity payment.

Some persons questioned the appropriateness of applying the replant payment against premium owed. They contended that deducting the replant payment from any subsequent indemnity is unfair in that there were extra expenses incurred for replanting, and that such actions did, in most cases, result in lower losses for FCIC. It was generally agreed that a replant payment should not increase the total liability under the contract.

Effective with the 1985 crop year, the Corporation amended the replant payment provisions to provide that premiums owed may be deducted from the replant payment only if the billing date had passed, and that replant payments continue to be regarded as part of the total liability of the contract but not be deducted from subsequent indemnities until the sum equals the total liability.

It was determined that the deduction of premium owed only after the billing date had passed hampered the Corporation's obligation to collect premium in a timely and businesslike manner.

The present provisions in the subject policies provide that premium owed may be deducted from a replant payment and reads as follows:

> Any unpaid amount due us may be deducted from any indemnity payable to you or from a replant payment if the billing date has passed on the date you are paid the replant payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

The insurance contracts provide that the premium is due and payable when insurance attaches, usually at the time of planting. The Corporation has determined, as a matter of policy, that payment will not be demanded until approximately the time of harvest or the time of loss whichever is earlier. Therefore, the Corporation delays billing until approximately harvest time so that the insured may pay the premium from the proceeds of the crop or from any indemnity which may be due.

If there is a substantial loss during the period before the final planting date, it is to the benefit of both the insured and the Corporation that the crop be

replanted. The contracts require that replanting be done if time permits. For this purpose the Corporation pays a set amount not to exceed the actual cost. However, since the premium is due and owing to the Corporation before the time of replanting, good business practices require that the replanting payment be set off against the outstanding debt owed to the Corporation. The replanting payment is in the nature of an indemnity.

Since the premium is due and owing at the time insurance attaches, the insured's replanting payment is used to reduce the amount of premium outstanding, thereby reducing the amount the insured must pay to the Corporation at the time of harvest. Application of the payment to premium due will increase the collection of accounts due to the Corporation in accordance with sound business practices and will reduce the confusion caused by making payments to insureds and shortly thereafter billing them for premium due on the same contract.

In exchange for replanting, the Corporation pays a replanting payment. Since the replanted crop is, in effect, a new crop, the Corporation proposes to pay up to the guarantee if loss occurs, in accordance with the contract, without deduction for the amount of the replant payment. As a further consideration in exchange for replanting, the Corporation will absorb the premium for the portion of the guarantee reinstated.

The full guarantee will be reinstated only if the crop is replanted in accordance with the requirements for planting the initial crop. For example, if the initial crop was required to be planted in rows far enough apart to be cultivated, replanting by broadcast will not result in reinstatement of the full grarantee. In that example, replanting would result in the guarantee being reduced by the amount of the replanting payment.

This approach is actuarially sound. Review has shown that replanting usually results in a substantial reduction of indemnity paid. If a normal crop is raised, the insured will realize, at a minimum, 25 percent more than reimbursement by the replant indemnity.

It is further proposed that the applicable section of the policy relative to a replanting payment be amended to include the following statement:

The Corporation will transfer the original liability to the replanted crop without reduction by the amount of the replant payment without increase in the premium charged for insurance coverage. To be eligible for transfer of liability, the crop must be planted in accordance with the requirements of the initial planting.

By this means, the Corporation provides incentive to the policyholder to do all possible to replant to the insured crop by defraying most of the cost involved in replanting and by absorbing any premium increase normally associated with assumption of increased liability. Taken together, the replant payment and absorption of premium increase are considered jointly beneficial to the insured producer and cost effective to the Corporation in lieu of full indemnity payment under the terms of insurance.

Changes are proposed for all the subject crop insurance policies in Sections 6, 9, and 17 for this purpose.

This amendment is proposed to be effective on all the subject crops for the 1988 and succeeding crop years.

FCIC is soliciting public comment on this proposed rule for 60 days after publication in the **Federal Register**. Written comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, 449

Crop insurance; Grain sorghum, Rice, Peanut, Sunflower, Sugar beet, Soybean, Corn, Dry bean, Fresh market tomato, Pepper, Popcorn, and Fresh market sweet corn (respectively).

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Grain Sorghum, Rice, Peanut, Sunflower, Sugar Beet, Soybean, Corn, Dry Bean, Fresh Market Tomato, Pepper, Popcorn, and Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, 449, respectively), effective for the 1988 and succeeding crop years in the following instances:

1. The authority citation for 7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, and 449 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In §§ 420.7(d), 424.7(d), 425.7(d), 428.7(d), 430.7(d), 431.7(d), 432.7(d), 433.7(d), 444.7(d), 445.7(d), 447.7(d), and 449.7(d), Section 6 of the FCIC Policy is revised to read as follows:

§§ 420.7, 424.7, 425.7, 428.7, 430.7, 431.7, 432.7, 433.7, 444.7, 445.7, 447.7, and 449.7 The application and policy.

* * * * *

(d) * * *

6. Deduction for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from any replant payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

* * * * *

3. In §§ 420.7(d), 424.7(d), 428.7(d), 430.7(d), 444.7(d), 445.7(d), and 449.7(d), Section 9 of the FCIC Policy is amended by adding subsection 9.f.(3) to read as follows:

§§ 420.7, 424.7, 428.7, 430.7, 444.7, 445.7, and 449.7 The application and policy.

* * * * *

(d) * * *

9. Claim for indemnity.

* * * * *

f. * * *

(3) The Corporation will transfer the original liability to the replanted crop without reduction by the amount of the replant payment and without increase in the original premium charged for insurance coverage. To be eligible for transfer of liability without reduction, the crop must be planted in accordance with the requirements of the initial planting.

* * * * *

4. In § 447.7(d), Section 9 of the FCIC Policy is amended by adding subsection 9.f.(4) to read as follows:

§ 447.7 The application and policy.

* * * * *

(d) * * *

9. Claim for indemnity.

* * * * *

f. * * *

(4) The Corporation will transfer the original liability to the replanted crop without reduction by the amount of the replant payment and without increase in the original premium charged for insurance coverage. To be eligible for transfer of liability without reduction, the crop must be planted in accordance with the requirements of the initial planting.

* * * * *

5. In §§ 425.7(d), 432.7(d) and 433.7(d), Section 9 of the FCIC Policy is amended by adding subsection 9.g.(3) to read as follows:

§§ 425.7, 432.7, and 433.7 The application and policy.

* * * * *

(d) * * *

9. Claim for indemnity.

* * * * *

g. * * *

(3) The Corporation will transfer the original liability to the replanted crop without

reduction by the amount of the replant payment and without increase in the original premium charged for insurance coverage. To be eligible for transfer of liability without reduction, the crop must be planted in accordance with the requirements of the initial planting.

* * * * *

6. In § 447.7(d), Section 17 of the FCIC Policy is amending by redesignating present subsections j. through l. as k. through m. respectively, and by adding a new subsection 17.j., to read as follows:

§ 447.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

j. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

7. In § 432.7(d), Section 17 of the FCIC Policy is amending by redesignating the present subsections k. through n. as l. through o. respectively, and by adding a new subsection 17.k. to read as follows:

§ 432.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

k. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

* * * * *

8. In §§ 420.7(d), 428.7(d), and 431.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections k. through m. as l. through n. and by adding a new subsection 17.k., respectively, to read as follows:

§§ 420.7, 428.7, and 431.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

k. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

9. In § 424.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections k. through o. as l. through p. respectively, and by adding a new subsection 17.k., to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

k. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

10. In § 430.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections l. through n. as m. through o. respectively, and by adding a new subsection 17.l., to read as follows:

§ 430.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

l. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

11. In § 433.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsection l. through n as m. through o. respectively, and by adding a new subsection 17.l., to read as follows

§ 433.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

l. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

* * * * *

12. In § 425.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections l. through o. as m. through p. respectively, and by adding a new subsection 17.l., to read as follows:

§ 425.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

l. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

* * * * *

13. In § 449.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections p. through u. as q. through v. respectively, and by adding a new subsection 17.p. to read as follows:

§ 449.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

p. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

14. In § 444.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections s. through w. as t. through x. respectively, and new subsection 17.s., to read as follows:

§ 444.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

21. s. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

15. In § 445.7(d), Section 17 of the FCIC policy is amended by redesignating the present subsections t. through w. as u. through x. respectively, and by adding a new subsection 17.t., to read as follows:

§ 445.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

t. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

Done in Washington, D.C. on November 26, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-1700 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-08-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6683; File No. S7-1-87]

Regulation D Revisions; Exemption for Certain Employee Benefit Plans

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is publishing for comment proposed amendments to several of the rules comprising Regulation D, which provides for three separate, distinct exemptions from the registration requirements of the Securities Act of 1933 (the "Securities Act"). The revisions involve additions to the "accredited investor" definition in the regulation, an increase in the ceiling on the total offering price permitted under Rule 504 for certain offerings, and a revision of the general solicitation restrictions under Rule 504. Additional technical revisions to Regulation D are proposed. Comments also are sought on the elimination of accreditation based solely upon a $150,000 purchase and the application of the disqualifying provisions currently applicable in Rule 505 offerings to Rule 506 offerings. A new rule apart from Regulation D is also being proposed herein which will provide an exemption from the registration requirements of the Securities Act for offers and sales of securities pursuant to certain employee benefit plans and employment contracts of non-reporting companies.

DATE: Comments must be received on or before March 16, 1987.

ADDRESS: Comment letters should refer to File No. S7–1–87 and be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments will be available for public inspection and copying in the Commission's Public Reference Room at the above address.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff or Karen M. O'Brien, (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission, acknowledging the cooperation of the North American Securities Administrators Association, Inc. ("NASAA"),[1] is proposing for comment several revisions to Regulation D,[2] the limited offering exemption from the registration requirements of the Securities Act.[3] In addition, a new rule to be promulgated pursuant to the Commission's exemptive authority under section 3(b) of the Securities Act[4] is proposed to exempt from the registration requirements of the Securities Act offers and sales of securities pursuant to certain employee benefit plans or employment contracts of issuers that are not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act ("non-reporting companies or issuers").

The proposed revisions to Regulation D primarily extend the definition of accredited investor[5] to include various institutional investors, such as savings and loan associations and broker-dealers, certain trusts, partnerships and corporations, and to permit a joint as well as an individual income test; increase the total offering price permitted under Rule 504 from $500,000 to $1 million for certain offerings; and permit general solicitations in offerings pursuant to Rule 504 in states which offer no qualifying registration procedure, if the offering documents used have been reviewed by at least one state which provides for such registration. Other proposed revisions are technical changes prompted by interpretative inquiries made to the Office of Small Business Policy in the Commission's Division of Corporation Finance. Comments also are sought on the elimination of accreditation based solely upon a $150,000 purchase, and application of the disqualifying provisions applicable in Rule 505 offerings to Rule 506 offerings.

I. Proposed Revisions to Regulation D

Regulation D is a series of six rules, designated Rules 501–506, that establish three separate, distinct exemptions from the registration requirements of the Securities Act. Rules 501–503 set forth definitions, terms and conditions that apply generally throughout the regulation. The exemptions proper are contained in Rules 504, 505 and 506.

Rules 504 and 505 were designed primarily for smaller issuers. Currently, Rule 504 is an exemption under section 3(b) of the Securities Act available to non-reporting companies and companies that are not investment companies as defined in the Investment Company Act of 1940[6] for offerings not in excess of $500,000. Under this rule, there is no limitation on the number of purchasers and, under certain circumstances, there may be a general solicitation and the securities issued may be resold without any restrictions. In adopting Rule 504, the Commission stated that it intended to create a clear and workable exemption for small offerings by small issuers to be regulated by State "Blue Sky" requirements. Rule 505 also provides an exemption under section 3(b) of the Securities Act for non-investment companies (either reporting or non-reporting) for offerings not in excess of $5 million. Although there may be no general solicitation under this rule, sales may be made to accredited investors and up to 35 other persons who need not be sophisticated.[7] The ability to sell to non-sophisticated investors in an amount greater than that permitted by Rule 504 was intended to make it easier for small issuers to find potential purchasers.

Rule 506 is a safe harbor rule under section 4(2) of the Securities Act available to any issuer, including both reporting and investment companies. There is no limit to the amount that may be raised under this exemption. However, there can be no general solicitation, and sales may be made only to accredited investors and up to 35 sophisticated persons.[8]

The majority of the proposed revisions to Regulation D are being proposed by the Commission in response to continuing suggestions from interested persons concerning ways to enhance the practical use of Regulation D as a capital formation tool for small business without compromising investor protection. Many of the proposed revisions to Regulation D were addressed by the participants at the recent Fifth Annual SEC Government-Business Forum (the "Fifth Annual Forum") as well.[9]

---

[1] NASAA is an association of securities commissioners from each of the 50 states, the District of Columbia, Puerto Rico and several of the Canadian provinces.

[2] 17 CFR 230.501–506.

[3] 15 U.S.C. 77a et seq.

[4] 15 U.S.C. 77c(b).

[5] 15 U.S.C. 77b(15); 17 CFR 230.215; 17 CFR 230.501.

[6] 15 U.S.C. 80a et seq.

[7] Rule 505 also contains disqualification provisions. *See infra* note 19.

[8] Regulation D provides the framework for a limited offering exemption with potential uniform applicability at both the federal and state levels. This uniform limited offering exemption ("ULOE") is an official policy guideline of NASAA. Rule 504 is not a part of ULOE. *See infra* note 32 and accompanying text.

[9] This Forum is conducted annually, hosted by the Commission, to bring small businessmen, their representatives and officials of the federal and local governments together to discuss ways of removing governmental impediments to the capital raising ability of small business. Section 503, Small Business Investment Incentive Act of 1980, 94 Stat. 2275. A final report of the Forum's recommendations is submitted to the U.S. Congress, as well as to interested instrumentalities and agencies of government for appropriate consideration and action. The final report is generally published in January following the Forum proceedings. The Fifth Annual Forum was held on September 25–27, 1986 in Washington, DC.

The Commission will publish an information release containing the entire texts of the securities regulation recommendations of the Fifth Annual Forum, when the final report is submitted to Congress later this month.

A. Accredited Investors

A keystone of Regulation D is the concept of the "accredited investor", a listing of persons recognized as not requiring mandated disclosure in the limited offerings under Regulation D or section 4(6) of the Securities Act.[10] As presently constructed, certain institutional investors, private business development companies, eleemonsynary organizations, company insiders, purchasers of more than $150,000, natural persons with substantial net worth or income, and entities all of whose equity owners are accredited, qualify as accredited investors. This concept is intended to encompass those persons whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of the Securities Act's registration process unnecessary.

Under the proposals, the institutional investor item, Rule 501(a)(1), which is currently limited to certain banks, insurance companies, registered investment companies, business development companies, small business investment companies and specified employee benefit plans, would be expanded to include savings and loan associations and similar institutions whether acting for their own accounts or as fiduciaries, and broker/dealers registered under the Securities Exchange Act of 1934 (the "Exchange Act").[11] Indeed, many states already exempt securities offerings involving institutional investors such as savings and loan associations, and broker/dealers.[12] There appears to be no basis for distinguishing these institutional investors from banks, insurance companies or registered investment companies for purposes of Regulation D. Therefore, the Commission proposes to amend Rules 215 and 501 to specifically include these institutions. With respect to broker/dealers, the Commission has not proposed any specific size test for determining their accreditation. Comments are requested as to whether a total asserts, net capital or other size test should be included with respect to accrediting broker/dealers. The dollar or other size criteria should be specified in the comments along with an explanation of the bases for the limits suggested.

Rule 501(a)(1) also would be amended to codify a staff interpretation that a self-directed employee benefit plan is an accredited investor where the investment decisions are made solely by accredited investors and the investments are made only on behalf of those investors.[13]

Rule 501(a)(3) currently accredits tax-exempt organizations with total asets in excess of $5 million. It is proposed to expand this item to include any corporation, partnership or business trust meeting the total assets threshold so long as it has not been specifically formed for the purpose of purchasing any securities being offered pursuant to Regulation D. The eleemosynary organizations currently encompassed by Rule 501(a)(3) would continue to be covered by the provision. This revision would broaden the coverage of the accredited investor definition to include corporations, partnerships and business trusts which are not currently accredited unless they purchase at least $150,000 of securities. The $5 million total assets measurement included in Rule 501(a)(3) parallels the current standard for entry into the Exchange Act reporting system.[14] As indicated above, the $5 million threshold has been used for accrediting eleemosynary organizations and the Commission is not aware of any problems that have occurred with respect to these entities.[15]

As presently drafted, Rule 501(a)(4) accredits any executive officer of an issuer. It has been suggested that other officers, if sophisticated, could also be deemed to be accredited. Comments are requested about broadening Rule 501(a)(4) so that certain other officers of a company although not policymakers, could be considered accredited investors, if they have such knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment.

The income test included in Rule 501(a)(7) for accredited status currently requires an individual to have earned in excess of $200,000 for the two most recent years and the individual must expect to earn in excess of $200,000 in the current year. Many have suggested that the provision ignores the reality of the two-income household as commonplace in today's society. The proposed amendments would expand this income test to provide thay any natural person who had, together with a spouse, annual income in excess of $300,000 for the two-year period and reasonably expects to reach the same income level in the current year, would be accredited.

The Fifth Annual Forum recommended a joint income test of $100,000.[16] Other commentators have suggested either a joint income test of $200,000 or an individual income test of $100,000, with a limitation of $50,000 on the amount that could be invested by individuals with income under $200,000. In addition, it has been suggested that the joint net worth test be reduced from its present level of $1 million to $500,000. The Commission specifically asks for reasoned comments as to the desirability of these proposals and whether they would provide sufficient investor protection.

A new category of accredited investor is proposed to be added in order to permit certain trusts to qualify as accredited investors. As presently structured, a trust can only be accredited if it has a bank as its trustee or it makes a $150,000 purchase under Rule 501(a)(5). Over the years, suggestions have been made that trusts should be accorded accredited status by virtue of their size, sophistication of their investment decision maker or accredited beneficiaries. The Commission proposes to accredit trusts which satisfy three standards: (1) Total assets in excess of $5 million; (2) an investment decision made by sophisticated person; and (3) a total purchase price which does not exceed 10 percent of the trust's total assets. A trust formed to purchase the investment would not qualify under this provision. In addition, since business trusts would be specifically included in Rule 501(a)(3), they would not need to be accredited under this provision.

In view of the accommodations to be made under the proposals for corporations, partnerships and trusts, the Commission is considering eliminating the $150,000 purchaser item contained in Rule 501(a)(5). The provision appears to be primarily used by corporations, partnerships and trusts which under the current rules are not otherwise defined as accredited investors. In addition, a curious anomaly in the provision permits a natural person

[10] The Commission uses a uniform definition applicable to section 4(6) and Regulation D. In this regard, Rule 501(a) is the same as section 2 (15) of the Securities Act combined with Rule 215. 17 CFR 230.215. The proposals today would also revise the definitions in Rule 215 to continue the uniformity.

[11] 15 U.S.C. 78a et seq. Expanding the "accredited investor" concept has been recommended by the Government-Business Forums, professional organizations and representatives of industry.

[12] *See* Uniform Securities Act, section 402(b)(8).

[13] *In re* Diane P. Weiss (December 21, 1983) (interpretative letter from the Division of Corporation Finance).

[14] *See* 17 CFR 240.12g-1.

[15] The Fifth Annual Forum endorsed the inclusion of a new or the expansion of the existing accredited investor category for entities maintaining minimum financial status. The Forum, however, recommended a $500,000 net worth test.

[16] The Fifth Annual Forum would expand the income test even further to include entities as well as natural persons earnings $100,000.

with as little as $750,000 of net worth to become accredited with a purchase of $150,000 whereas to accredit a natural person for a smaller purchase, a net worth of $1 million is required. Comments are specifically requested as to the effect eliminating accreditation based upon the size of the purchase would have on other purchasers, unable to be accredited under proposed Rule 501.[17]

B. Rule 504

The Commission also is proposing to expand the availability of Rule 504 as a capital-raising device. Rule 504 currently permits offerings of securities up to $500,000, less the aggregate offering price for all securities sold in the prior 12 months in reliance on any exemption under section 3(b) or in violation of section 5(a) of the Securities Act. While the other limited offerings under Regulation D must be made without general advertising or solicitation, both private and public offerings are permitted under Rule 504. The reason for this dichotomy was the Commission's assessment that because of the small dollar amount involved and the likelihood that many of these offerings would be limited geographically, in Rule 504 offerings greater reliance could be placed on state "Blue Sky" laws.

Under the proposal, the aggregate offering price that could be offered under Rule 504 would be raised to $1 million, provided that no more than $500,000 is offered and sold without registration under state securities laws. Where Rule 504 offerings are registered pursuant to the provisions of the states' securities laws, the Commission believes that the costs of compliance with additional federal requirements place an inordinately heavy burden on these small offerings. Therefore, the Commission believes it is consistent with the goals of section 3(b) of the Securities Act and the needs for investor protection to increase the availability of Rule 504 where the states are already overseeing the offering process.

Proposals to raise the Rule 504 ceiling to $1 million without limitation have been made by the Fifth Annual Forum and others. The Commission requests comments from those supporting such proposals to specifically address the justification for such change and the basis for determining that such a change would adequately protect investors.

The proposed revision of Rule 504 also modifies the general solicitation proscription of Regulation D to take fuller account of state securities regulation. Rule 502(c) prohibits the use of general solicitation or general advertising regarding the offer or sale of any Regulation D offering except as provided by Rule 504. The rule permits general solicitation and advertising in offers and sales in those states which provide for the registration of the securities and require the delivery of a disclosure document before sale, provided such offers and sales are made in accordance with the state provisions. Some states, however, do not provide for such a registration procedure, or provide a nonqualifying procedure. To expand the utility of the public side of Rule 504, the Commission proposes to revise Rule 502(c) to permit general solicitation and advertising in states which do not have a registration provision or have a nonqualifying procedure, if the offering has been registered in at least one state and the required disclosure document is delivered prior to sale in the states which have no or a nonqualifying registration procedure.[18]

As drafted, the rule would not treat such public offerings in states with no or nonqualifying registration procedures as "registered" for purposes of the $1 million ceiling in proposed Rule 504(b)(2). Commentators are specifically requested to address whether offers and sales in a nonqualifying state using the disclosure document prepared in accordance with the requirements of a qualifying state in which securities of the same offering are registered should be permitted in the calculation toward the $1 million ceiling.

C. Disqualification Provisions

The Commission is seeking public comment as to whether the disqualification provisions now contained in Rule 505 also should be applied to offerings under Rule 506.

The current system for Rule 505 offerings prohibits the use of the exemption if certain persons involved in the offering, such as the issuer, its affiliates or the underwriters have been the subject of legal action for certain conduct.[19] Representatives of the states

[17] The Fifth Annual Forum recommended that the $150,000 investment test be reduced to $100,000. Even if the Commission were ultimately to determine to retain accreditation based on the size of purchase, it is not considering reduction in the $150,000 threshold.

Other suggested methods of accreditation have included attribution of the accredited status of a relative. The Commission is concerned that such an expansion would give accredited investor status to persons who need the protections of the registration process. Some have suggested permitting accredited status for entities where less than 100 percent of the equity owners are accredited. The Commission does not believe that it should try to draw distinctions between varying percentages, for purposes of determining accredited entities.

[18] The Commission's intention is to allow the registration in one state to provide an iindependent overview of such offerings for those states which have no registration procedure. This change could aid offerings in areas such as the District of Columbia where no registration procedure is available, but both the surrounding jurisdictions of Maryland and Virginia provide for such registration.

The final recommendations of the Fifth Annual Forum addressed the issue of broadening the permissible methods of general solicitation under Regulation D in relationship to those who are solicited and the limited manner of the solicitation. Specifically, that Forum recommended permitting general solicitation to accredited investors, general advertising by financial intermediaries and general solicitation where a small dollar amount of capital is sought to be raised. Other persons have also suggested that limited forms of general advertising should be permitted under certain circumstances. Althouth the Commission is proposing only a limited expansion for public offerings under Regulation D, comments are invited about reducing the scope of the general solicitation restrictions. Commentators should be mindful of the limited kinds of offerings envisioned by the regulations when recommending any changes in this area.

[19] The disqualifying provisions are the same as those contained in Regulations A, 17 CFR 230.252 (c), (d), (e) and (f). The following constitutes a summary of these provisions. For a more complete understanding of the disqualifiers, reference should be made to the complete text of Rule 252.

Subdivision (c) provides that the Rule 505 exemption cannot be used, if the issuer, a predecessor or affiliated issuer, in the five-year period prior to the offering, has been the subject of a stop order or other proceeding under Section 8 of the Securities Act; the subject of a Regulation A suspension or a suspension under another Section 3(b) rule; convicted of a felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission; the subject of a temporary restraining order, preliminary or permanent injunction relating to conduct or practice in connection with the purchase or sale of a security or involving the making of any false filing with the Commission; or the subject of a temporary restraining order, preliminary injunction or order with respect to false representations under the U.S. Postal Service statutes.

The disqualifiers in subdivision (d) relate to affiliates of the issuer and promoters presently connected with the issuer and the underwriter. The disqualifying events include the following: conviction of a felony or misdemeanor in connection with the purchase or sale of any security, involving the making of a false filing with the Commission or arising out of the conduct of the underwriter, broker/dealer or investment advisor business, within the preceding ten years; entry of a temporary restraining order, preliminary or permanent injunction relating to conduct of practice in connection with the purchase or sale of a security, involving the making of a false filing with Commission or arising our of the conduct of the underwriter, broker/dealer or investment advisor business, within the preceding five years; being subject to a Commission sanction pursuant to its authority over broker/dealers, municipal securities dealers or investment advisors; suspension or explusion from a registered national securities exchange, registered national securities association or Canadian exchange or association for conduct inconsistent with just and equitable principles of trade; and entry of a temporary restraining order, preliminary injunction or order with respect to false representations under the U.S. Postal Service statutes, within the preceding five years.

Continued

securities regulations have observed that including disqualifiers in Rule 506 could serve the interests of investor protection by preventing certain persons from offering and selling securities in reliance upon ULOE and the two broadest federal exemptions in Regulation D. These representatives point out that the basis for disqualifying provisions in exemptions is that as privileges, rather than rights, such exemptions can be withheld for certain persons and should not be automatically available to persons that have exhibited a disregard for the law. Provisions of this nature have generally been included in exemptions promulgated by the Commission under Section 3(b).

Recognizing that exceptions should be permitted, all Commission regulations containing such disqualifying provisions also provide a procedure for the Commission to waive the disqualification and permit the exemption to be available. Although in the context of an enforcement action, the staff will not recommend that the Commission accept a settlement offer which includes a statement that the disqualification provisions are waived, waivers are frequently granted thereafter and are based upon a showing of good cause by the issuer or other disqualified person that the exemption should be available. Typically this showing demonstrates that the conduct leading to disqualification has been rectified so that it is unlikely to recur. Any disqualification provision added to Rule 506 would contain a waiver procedure.

D. Other Revisions

A number of technical revisions are proposed to be made to Regulation D. These changes are a result of the Commission's experience with the regulation since its adoption in 1982.[20]

The term "aggregate offering price" as defined in Rule 501(c) was intended to encompass the total amount of securities to be offered for sale, not just the amount of securities actually sold. The staff consistently has interpreted the provision in this way, but as the rule is somewhat ambiguous in this regard, clarifying language is proposed.

The principles governing the calculation of purchasers for purposes of Rules 505 and 506 are contained in Rule 501(e). As currently drafted, an employee benefit plan that invests only in the employer's securities solely with employer contributions cannot count as a single purchaser. Employee benefit plans are intended primarily as employee compensation and incentive mechanisms. In order to lessen impediments to providing employees such opportunities arising out of the Securities Act's registration process and exemption procedures, the Commission believes it appropriate to count a plan that invests in the issuer's securities, only with employer contributions, as a single purchaser.

When Regulation D was adopted, the information requirements in Rule 502(b)(2)(i) were staged to complement the cut-off established in Securities Act registration Form S–18,[21] which at that time was $5 million. Subsequently, the Form S–18 ceiling was raised to $7.5 million but no change was made in Rule 502(b). It is now proposed that such a change be made.

The proposed amendments also provide that the information requirements applicable to reporting companies using a recent Securities Act registration statement be satisfied by Forms S–11 [22] and S–18 as well as Form S–1.

In connection with the disclosure requirements, the proposed amendments to Rule 502(b) include specific reference to the new registration form for business combinations or exchange offers, Form S–4.[23]

The Commission also is considering permitting a reduced level of disclosure under Rule 502(b) for non-reporting companies offering securities in reliance on Rules 505 and 506 but raising a relatively small amount. The Commission is considering setting the amount at less than $2 million. The disclosure requirements could be tied to Regulation A.[24] Old Rule 146 [25] contained a special provision for offerings under $1.5 million. When the Commission initially proposed Regulation D, it also provided special disclosure requirements for offerings at this level, but would have required limited certified financial statements.[26] Specifically, the Commission would have required that financial statements for the issuer's most recent fiscal year be prepared in accordance with generally accepted accounting principles and certified to by an independent public accountant. If certification could not be obtained without unreasonable efforts or expense, only an audited balance sheet as of a date within 120 days of the commencement of the offering would have been required.

The Commission did not adopt the proposal because it appeared to unduly complicate the Regulation D disclosure scheme with little counterbalancing benefit. However, a provision that only a certified balance sheet need be included if certification of the full financial statements cannot be obtained without unreasonable effort or expense is included in Rule 502(d)(2)(i). The experience over the past four years suggests that there may be benefits to providing a reduced level of disclosure for such small offerings, possibly with no requirement for certified financial statements. The Fifth Annual Forum also recommended this change.

Commentators are asked to address whether there should be a new reduced level of disclosure; whether a $2 million ceiling should be used, or whether such ceiling should be higher or lower; whether the Regulation A disclosure standards or some other requirements should be used; and whether or not certified financial statements should be required.

There have been suggestions that the Commission revise Rule 502 in various other ways in order to change the safe harbors so that the application of the integration concept would be different. Inasmuch as the integration doctrine is not unique to Regulation D, the Commission believes that it would be more appropriate to address the integration issues as a whole, at another time.

Another Regulation D issue frequently raised by commentators is that of substantial or good faith compliance with the regulation. Opponents to this concept assert that the benefits of the safe harbor have to be accompanied by conditions which lend certainty to the exemption. They note that the regulation does already contain a certain amount of flexibility, for example, in determining accreditation and

---

The disqualifiers in subdivision (e) relate to the underwriters and include the following events within the preceding five years: being involved with an offering subject to stop order or other proceedings under Section 8 of the Securities Act or being involved with an offering subject to a Regulation A suspension or suspension under another Section 3(b) rule.

Subdivision (f) requires that reporting companies must be current in their Exchange Act reports for the 12 calendar months preceding the offering.

The Commission understands that the states may apply additional disqualifiers pursuant to their own law in connection with offerings made under their ULOE-based exemptions.

[20] Release No. 33–6389 (March 8, 1982) [47 FR 11251].

[21] 17 CFR 239.28.

[22] 17 CFR 239.18.

[23] 17 CFR 239.25.

[24] 17 CFR 230.251–264. Regulation A does not require the inclusion of certified financial statements.

[25] 17 CFR 230.146 (rescinded June 30, 1982). For offerings of less than $1.5 million, certified financial statements were not required.

[26] Release No. 33–6339 (August 7, 1981) [46 FR 41791].

sophistication and requiring disclosure to the extent material. On the other hand, advocates for the good faith compliance standard criticize the severity of the current system by pointing to certain offerings which are otherwise in complete compliance with Regulation D but lose the exemption as a result of an inadvertent failure to comply with some provision in a manner that is immaterial to the offering as whole.[27] The failure to legend the shares, or inadvertent sales to 36 unaccredited investors are frequently given as examples. The Commission is seeking comments as to whether or not a substantial or good faith compliance standard should be instituted for purposes of Regulation D. Commentators recommending such a standard should specifically indicate what the good faith compliance would encompass in terms of the various requirements presently contained in the regulation.

II. Proposed Exemption for Employee Benefit Plans and Contracts of Employment

The applicability of the registration requirements or availability of an appropriate exemption under the Securities Act to employee equity incentive arrangements has been a matter of increasing concern among smaller businesses in recent years. Some small companies have found the costs of complying with the Securities Act registration requirements too great, thus eliminating a potentially important tool to attract, compensate and motivate employees. A special registration form, Form S–8, was created to accommodate public companies offering such employee plans.[28] Non-public companies generally have relied upon Regulation A or, in recent years, Rule 504 for the offering of such plans.

Questions have been raised as to the utility of the Regulation A and Rule 504 exemptions for employee benefit plans and arrangements. It has been suggested that since such plans and arrangements are primarily compensatory in nature and incentive oriented, rather than designed to raise capital, special accommodation should be made under the federal securities laws.[29]

The Commission is proposing Rule 701 which would provide for an exemption under Section 3(b) from the registration requirements of the Securities Act for offers and sales of securities by non-reporting issuers pursuant to compensatory employee benefit plans established for the participation of employees, directors, trustees or officers of the issuer (or its parents or wholly-owned subsidiaries), as well as offers and sales of securities pursuant to employment contracts involving these persons.

Persons such as consultants and independent agents would not be within the purview of the exemption, as proposed. Commentators are asked to consider whether or not the plans covered by the exemption should also include participants of this type, who are not directly employed by the issuer but are closely associated with it.

A. Preliminary Notes

Proposed Rule 701 contains four preliminary notes, all of which are derived from similar introductory notes to Regulation D.

Inasmuch as the proposed rule contains no specific disclosure requirements, issuers are reminded in the first note that the antifraud provisions of the federal securities laws may require certain disclosures and that only an exemption from section 5 of the Securities Act is provided by the rule. The second note indicates that reliance on Rule 701 does not obviate the need to comply with applicable state laws governing the offer and sale of securities. The third note states that reliance on the rule does not constitute an election; any other applicable exemption will still be available. The final note indicates that the exemption provided by Rule 701 is only available to the issuer of the securities and not to its affiliates or other persons for purposes of resale. The securities acquired in the Rule 701 transaction generally would be restricted securities and could not be resold without registration under the Securities Act or an exemption therefrom.

B. Proposed Rule 701

The proposed rule would exempt offers and sales of securities by an issuer in accordance with the terms of a compensatory employee benefit plant[30] or pursuant to an employment contract. Commentators are asked to address whether the plan or contract condition will unduly limit the utility of the rule for incentive or compensation purposes. If so, the specific problems should be identified. The Commission intends that the rule be available for most, if not all, compensation arrangements, but is concerned that the exemption provided not be used principally as a capital-raising vehicle. Therefore, any suggested expansion of the ambit of the rule should be accompanied by conditions that will address that concern.

Under the proposed rule, the aggregate offering price under all plans and contracts could not exceed $5 million. This $5 million ceiling would be a maximum lifetime exemption for all company plans or employment contracts. For purposes of this lifetime limitation, all offerings under the employee benefit plan or employment contracts, other Rule 701 offerings and sales in violation of section 5(a) of the Securities Act would be aggregated, but not offerings pursuant to other section 3(b) exemptions.

The proposal would limit sales to $1 million in any 12-month period. An exception to the $1 million ceiling would be provided for sales made within 90 days after the filing of a Securities Act registration statement or within 90 days after the public announcement of a merger transaction.

Proposed Rule 701 provides a $5 million lifetime exemption for a non-reporting company's offers and sales of securities pursuant to all of its employee benefit plans and employment contracts. The Commission specifically requests comments as to whether the $5 million should be a lifetime exemption as proposed or an annual offering limitation. If the rule was otherwise adopted as proposed, an annual limitation would in essence permit a non-reporting issuer to sell $1 million of its securities pursuant to Rule 701 each year it was a non-reporting company.

The Commission is also requesting comments on whether there should be a different threshold for offers and sales in the context of the proposed rule and, if so, whether the $1 million sales limitation should be higher or lower. Such comments should also consider the need for the proposed provision which would permit sales without limitation for a specified period of time following the filing of a registration statement or

---

[27] *See, e.g.*, Schneider & Zall, section 12(1) and the Imperfect Exempt Transaction: The Proposed I & I Defense, 28 Bus. Law. 1011 (1973).

[28] 17 CFR 239.16b.

[29] As part of its most important securities recommendation, the 1985 SEC Government-Business Forum on Small Business Capital Formation suggested that a specific exemption from the Securities Act registration requirements be developed and adopted "for the issuance of shares of non-public companies to employees under plans that are fundamentally compensatory in nature, such as stock, option, stock bonus, restricted stock, performance share, stock appreciation right and below-market purchase plans." The Fifth Annual Forum again endorsed this position. Representatives of a number of Committees of the American Bar Association have also recommended that such an exemptive rule be devised.

[30] The term is defined in Rule 405, 17 CFR 230.405. Proposed Rule 701 contains a definition identical to that contained in Rule 16b–3, 17 CFR 240.16b–3.

the announcement of a merger. In this regard, the proposed period of 90 days should be addressed and consideration should be given to whether it should be longer or shorter.

Comments are also requested as to whether the aggregate offering limitation proposed should be lower than the maximum of $5 million permitted by section 3(b) if a lesser amount would satisfy the needs of small issuers for their compensation arrangements. In this regard, specific comment is sought on a $1 million aggregate offering ceiling and a $500,000 sales amount in any 12-month period. Factual information and data is requested about the current levels of incentive and compensation plans and arrangements of small issuers involving the sale of their securities.

As proposed, there is no limitation on the manner of the offering. Thus, general advertising or solicitation would be permissible. The Commission requests specific comment as to any limitations that may be necessary or appropriate in the manner of offering or sale.

The rule would not be available to reporting companies. In the event that the issuer subsequently became subject to the reporting provisions of the Exchange Act, it is proposed that shares which had come into the hands of employees pursuant to an employee benefit plan or employment contract exempted by Rule 701 could be resold like shares issued on Form S–8. Thus, affiliates of the issuer could resell without a further holding period under Rule 144 and non-affiliates could resell freely without restriction.[31] In this regard, once a company became subject to the Exchange Act reporting system, Rule 701 would be unavailable. However, as the rule is proposed, offers made in reliance upon Rule 701 could be consummated even after a company became subject to the Exchange Act reporting provisions. Thus, options granted prior to the issuer becoming subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act could be exercised thereafter in reliance upon Rule 701.

C. Proposed Rule 702 and Form 701

The Commission also is proposing Rule 702 which would require Form 701 to be filed within 30 days of the first sale of the issuer's securities that brought aggregate sales in reliance on Rule 701 over $50,000. Thereafter, the form would be required to be filed annually within 30 days following the close of the issuer's fiscal year.

[31] 17 CFR 230.144.

Rule 702 and Form 701 are proposed for a temporary effective period of three years from their date of adoption. The Commission believes that it is important to monitor new exemptive provisions. By requiring this brief form, the Commission will be able to assess the utility of the exemption, and oversee any abuses. At the end of three years, Form 701 would cease to be required unless the Commission took further action to establish it on a permanent basis or extended its life as a temporary requirement.

Comments are requested as to whether Form 701 should be a required filing, and if so whether its filing should be a condition to the Rule 701 exemption as proposed. In this connection, commentators who favor a filing requirement but believe that it should not be a condition to the exemption should suggest ways for the Commission to enforce the requirement. Commentators who support the elimination of Form 701 in its entirety should explain the way in which the Commission would monitor the exemption for both abuses and its utility to the non-reporting companies eligible for its use, in the absence of the filing requirement.

III. NASAA Cooperation

As previously indicated, Regulation D serves as the basis for ULOE, which was formally adopted by NASAA as an official policy guideline in September 1983.[32] Since then, more than half of the states have adopted ULOE or an exemption substantially similar to it. The Commission and NASAA continue to work to encourage the remaining states to adopt ULOE. Since Rule 504 is not a part of ULOE, the proposals in that area as well as proposed Rules 701, 702 and Form 701, which are not a part of Regulation D, have no direct application upon the ULOE policy statement.

The proposals being published today by the Commission have been reviewed by representatives of the NASAA Small Business Finance Committee. The Commission appreciates the continuing cooperation of NASAA and the members of the Committee in connection with the proposals being made.

[32] 1 CCH Blue Sky L. Rep. § 5294 at 1273. An official policy guideline of NASAA represents endorsement of a principle which NASAA believes has general application. NASAA has no power to enact legislation, promulgate regulations or otherwise bind the legislatures or administrative agencies of its members.

IV. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed modifications to Regulation D and the new Rules 701, 702 and Form 701.

The analysis notes that the majority of the revisions, i.e., to the "accredited investor" definition, the offering ceiling under Rule 504, the general solicitation provision under Rule 504 and the exemption for offers and sales of securities pursuant to certain compensatory employee benefit plans or employment contracts, are being proposed as a result of public inquiry as well as the Commission's own experience with the exemptive scheme under the Securities Act. The cooperation of NASAA and the ULOE policy guideline is also noted. The objective of coordinating limited offering exemptions at both the federal and state levels is considered along with the goal of aiding smaller issuers in the capital formation process which is greatly assisted through a coordinate exemptive scheme. The proposals, except for proposed Rule 702, would add no new reporting, recordkeeping or other compliance requirements for issuers and in fact may eliminate the need to provide certain information.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Eloise A. Green in the Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

V. Cost—Benefit Analysis

In order to fully evaluate the benefits and costs associated with the revisions to Regulation D and proposed new Rules 701, 702 and Form 701, the Commission requests commentators to provide views and data as to the costs and benefits associated with these proposals. In this regard, the Commission believes that the proposals will work significant costs savings for issuers because increasing the variety of accredited investors and the dollar amount which can be raised under Rule 504 with state approbation should increase the number of offerings under Regulation D which can be effected without the provision of federally mandatory disclosure documents under the regulation which can save issuers some money. Furthermore, the expansion of the general solicitation provision under the regulation should provide for additional savings and greater capital raising

potential by allowing the issuer to raise capital in a greater number of jurisdictions which would not otherwise be available under the current status for the regulations. Savings should also occur through the exemption for offers and sales of securities pursuant to employee benefit plans and employment contracts, which now are either required to be registered under the Securities Act or exempted by way of Regulation A. The number of employee plans not being offered because of the federal securities laws requirements should decreases, which may be a significant benefit to businesses in their efforts to seek and retain qualified employees. It appears to the Commission that the proposals, if adopted, will have little if any negative impact upon the protection of investors.

VI. Statutory Basis, Text of Proposed Amendments and Authority

The amendments to the Commission's rules are being proposed pursuant to section 2(15), 3(b), 4(2), 4(6), 19(a) and 19(c) of the Securities Act.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows: (Arrows indicate proposed additions)

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: Sections 230.100 to 230.174 issued under Sec. 19, 48 Stat. 85 as amended; 15 U.S.C. 77s, * * *

2. Section 230.215 is amended by revising paragraphs (a), (c) and (g), redesignating paragraph (h) as (i) and revising it and adding a new paragraph (h) as follows (the introductory text is republished):

§ 230.215 Accredited investor.

The term "accredited investor" as used in section 2(15)(ii) of the Securities Act of 1933 (15 U.S.C. 77b(15)(ii)) shall include the following persons:

(a) ►Any savings and loan association or other institution specified in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934;◄ or any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 either with total assets in excess of $5,000,000 ►or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;◄

* * * * *

(c) ►Any organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;◄

* * * * *

(g) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years ►or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;◄

(h) ►Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in § 230.506(b)(2)(ii), provided that the total purchase price does not exceed 10 percent of the trust's total assets; and◄

►(i)◄ Any entity in which all of the equity owners are accredited investors under paragraph (a), (b), (c), (d), (f), (g) or ►(h)◄ of this § 230.215.

3. Section 230.501 is amended by revising the introductory text, paragraphs (a)(1), (a)(3), (a)(7) and the first sentence of paragraph (c), redesignating and revising paragraph (a)(8) as (a)(9) and adding new paragraphs (a)(8) and (e)(3) before the Note as follows:

§ 230.501 Definitions and terms used in Regulation D.

As used in Regulation D (§§ 230.510—230.506), the following terms shall have the meaning indicated:

(a) * * *

(1) Any bank as defined in section 3(a)(2) of the Act, or ►any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act◄ whether acting in its individual or fiduciary capacity; ►any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934;◄ employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, either if the investment decision is made by a plan fiduciary specified in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser, ►or if a self-directed plan with investment decisions made solely by persons that are accredited investors,◄ or if the employee benefit plan has total assets in excess of $5,000,000;

* * * * *

(3) ►Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;◄

* * * * *

(7) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years ►or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;◄

* * * * *

(8) ►Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in § 230.506(b)(2)(ii), provided that the total purchase price does not exceed 10 percent of the trust's total assets; and◄

►(9)◄ Any entity in which all of the equity owners are accredited investors under paragraphs (a)(1), (2), (3), (4), (6), (7) or ►(8)◄ of this section.

* * * * *

(c) *Aggregate offering price.* "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration ►to be◄ received by an issuer for issuance of its securities. * * *

* * * * *

(e) *Calculation of number of purchasers.* * * *

►(3) A non-contributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.◄

* * * * *

4. Section 230.502 is amended by revising the introductory text, the paragraph headings of (b)(2)(i) (A) and (B), by revising paragraphs (b)(2)(ii)(B) and (b)(2)(vi) as follows:

§ 230.502 General conditions to be met.

The following conditions shall be applicable to offers and sales made under Regulation D (§§ 230.501–230.506):

* * * * *

(b) *Information requirements.*

(1) * * *

(2) *Type of information to be furnished.*

(i) * * *

(A) *Offerings up to* ►$7,500,000.◄

* * * * *

(B) *Offerings over* ►$7,500,000.◄

* * * * *

(ii) * * *

(A) * * *

(B) The information contained in an annual report on Form 10–K under the Exchange Act or in a registration statement on Form S–1 [17 CFR 239.11], ►[Form S–11 [17 CFR 239.18], or Form S–18 [17 CFR 239.28]◄ under the Act or on Form 10 [17 CFR 249.210] under the Exchange Act, whichever filing is the most recent required to be filed.

* * * * *

(vi) For business combinations ►or exchange offers,◄ in addition to information required by ►Form S–4 [17 CFR 239.25],◄ the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transactions that are materially different from those for all other security holders.

* * * * *

5. Section 230.504 is amended by revising the section heading, paragraph (b), and Notes 1 and 2, and adding a new Note 3 as follows:

§ 230.504 Exemption for limited offer►ings◄ and sales of securities not exceeding ►$1,000,000.◄

* * * * *

(b) *Conditions to be met.*—(1) *General conditions.* To qualify for exemption under this § 230.504, offers and sales must satisfy the terms and conditions of §§ 230.501 through 230.503, except that the provisions of §§ 230.502 (c) and (d) shall not apply to offers and sales of securities under this § 230.504 that are made ►(i)◄ exclusively in one or more states each of which provides for the registration of the securities and requires the delivery of a disclosure document before sale and that are made in accordance with those state provisions; ►(ii) in one or more states which have no provision for the registration of the securities and the delivery of a disclosure document before sale if the securities have been registered in at least one state which provides for such registration and delivery before sale and such document is in fact delivered to all purchasers in the states which have no such procedure.◄

(2) *Specific condition. Limitation on aggregate offering price.* The aggregate offering price for an offering of securities under this § 230.504, as defined in § 230.501(c), shall not exceed ►$1 million,◄ less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this § 230.504 in reliance on any exemption under section 3(b) of the Act or in violation of section 5(a) of the Act, ►provided that no more than $500,000 of such aggregate offering price is made as offers and sales of securities without registration under a state's securities laws.◄

Note 1: The calculation of the aggregate offering price is illustrated as follows:

►*Example 1.* If an issuer sells $500,000 worth of its securities pursuant to state registration on January 1, 1987 under this § 230.504, it would be able to sell an additional $500,000 worth of securities either pursuant to state registration or without state registration during the ensuing 12-month period, pursuant to this § 230.504.◄

►*Example 2.* If an issuer sold $900,000 pursuant to state registration on June 1, 1986 under this § 230.504 and an additional $4,100,000 on December 1, 1986 under § 230.505, the issuer could not sell any of its securities under this § 230.504 until December 1, 1987. Until then the issuer must count the December 1, 1986 sale towards the $1 million limit within the preceding 12-months.◄

Note 2: If a transaction under this § 230.504 fails to meet the limitation on the aggregate offering price, it does not affect the availability of this § 230.504 for the other transactions considered in applying such limitation. For example, ►if an issuer sold $1 million worth of its securities pursuant to state registration on January 1, 1987 under this § 230.504 and an additional $500,000 worth on July 1, 1987, this § 230.504 would not be available for the later sale, but would still be applicable to the January 1, 1987 sale.◄

►Note 3: In addition to the aggregation principles, issuers should be aware of the applicabilitiy of the integration principles set forth in § 230.502(a).◄

6. By adding a new § 230.701 to read as follows:

§ 230.701 Exemption for offers and sales of securities pursuant to certain compensatory employee benefit plans and employment contracts.

Preliminary Notes

(1) Nothing in this exemption is intended to be or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the federal securities laws. The rule only provides an exemption from the registration requirements of the Securities Act of 1933 (the "Act") [15 U.S.C. 77a et seq.].

(2) Nothing in rule obviates the need to comply with any applicable state law relating to the offer and sale of securities.

(3) Attempted compliance with the rule does not act as an exclusive election, the issuer can also claim the availabilitly of any other applicable exemption.

(4) The rule is only available to the issuer of the securities and not to any affiliate of the issuer or to any other person for reselling the securities. The rule provides an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(a) *Exemption.* Offers and sales of securities that satisfy the conditions of paragraph (b) of this § 230.7001 by an issuer that is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.] and is not an investment company shall be exempt from the provisions of seciton 5 of the Act by virtue of section 3(b) of the Act.

(b) *Conditions to be met.*

(1) An exemption under this § 230.701 applies only to offers and sales of an issuer's securities (i) made in accordance with the terms of a compensatory employee benefit plan established by that issuer for the participation of its employees, directors, trustees or officers or the employees, directors, trustees or officers of its wholly-owned subsidiaries or its parents, or (ii) pursuant to a written contract of employment involving such persons.

(2) A compensatory employee benefit plan means an option, bonus, appreciation, profit sharing, retirement, incentive, thrift, savings or similar plan which meets the following conditions:

(i) The plan must be set forth in a written document describing the means or basis for determining the eligibility of individuals to participate and either the price at which the securities may be offered or the method by which the price or the amount of the award is to be determined; and

(ii) The plan must provide with respect to any option or similar right (including a stock appreciation right) offered pursuant to the plan that such option or right is not transferable other than by will or the laws of descent and distribution and that it is exercisable during the employee's lifetime only by him or by his guardian or legal representative.

(3) The aggregate offering price for all securities to be offered shall not exceed $5,000,000. Such offering price shall be reduced by all sales made pursuant to this § 230.701. It shall also be reduced by sales made in violation of seciton 5(a) of the Act within the preceding 12-month period. No adjustment to the aggregate offering price in this section shall be made for other offerings made in reliance upon other rules or regulations adopted pursuant to section 3(b) of the Act. The aggregate offering price under other rules and regulations adopted pursuant to section 3(b) shall not be reduced by offerings made under this § 230.701.

(4) Sales of securities under this § 230.701 shall be limited to $1 million made in any 12-month period, provided that in the event of (i) the filing of a registration statement under the Act, or (ii) the public announcement of a merger transaction, sales made within 90 days after either such event would not be subject to this limitation.

(c) *Resale limitations.* Securities acquired in a transaction pursuant to this § 230.701 shall have the status of securities acquired in a transaction under section 4(2) of the Act and cannot be resold without registration under the Act or an exemption therefrom. This status shall terminate 90 days after the issuer becomes subject to the reporting requirements of section 13 or 15(d) of the Exchange Act.

7. By adding a new temporary § 230.702 to read as follows:

§ 230.702(T) Notice of sales pursuant to an exemption under § 230.701.

(a) The issuer shall file with the Commission five copies of a notice on Form 701 [17 CFR 239.701] within 30 days after the first sale of securities which brings the aggregate sales pursuant to compensatory employee benefit plans or employment contracts exempt from the registration requirements of the Act by § 230.701 above $50,000, and thereafter annually within 30 days following the end of the issuer's fiscal year.

(b) The exemption provided by § 230.701 is specifically conditioned upon compliance with this § 230.702.

(c) A notice on Form 701 is considered filed with the Commission on the date of its receipt at the Commission's principal offices in Washington, DC.

(d) This section shall be effective until [3 years from effective date of final rule].

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

8. The authority citation for Part 239 continues to read in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.*

9. By adding § 239.701 (Form 701) to read as follows:

§ 239.701 Form 701, report of sales of securities pursuant to a compensatory employee benefit plan or employment contract.

This form shall be used for the report of sales of securities pursuant to a compensatory employee benefit plan or employment contract under Rule 701 (§230.701 of this chapter).

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

January 16, 1987.

[Form 701 does not appear in the Code of Federal Regulations]

BILLING CODE 8010-01-M

FORM 701

OMB APPROVAL
OMB NUMBER: 3235-
Expires: Pending Action

U.S. Securities and Exchange Commission
Washington, D.C. 20549

REPORT OF SALES OF SECURITIES PURSUANT TO A
COMPENSATORY EMPLOYEE BENEFIT PLAN OR EMPLOYMENT CONTRACT

Name of Issuer:

Address of Principal Executive Offices (Number, Street, City, State, Zip Code) | Telephone No. (Including Area Code)

Type of Business Organization:

[ ] Corporation [ ] Limited Partnership [ ] Business Trust [ ] Other (Please specify): _____

Type of Filing:

[ ] New Filing [ ] Annual Amendment [ ] Other Amendment

Full Title of the Plan:

Type of Plan: (Check all applicable plans)

[ ] Profit Sharing [ ] Appreciation [ ] Retirement [ ] Option [ ] Thrift

[ ] Incentive [ ] Savings [ ] Bonus [ ] Other (Please specify): _____

Or [ ] Employment Contract

Aggregate Offering Price for Plans: $_____

Aggregate Offering Price pursuant to Employment Contracts: $_____

Total: $_____

Dollar Amount and Number of Securities Offered to Date:	Dollar Amount	Number of Securities
Plans - $	_____	_____
Contracts - $	_____	_____

Dollar Amount and Number of Securities Sold to Date:	Dollar Amount	Number of Securities
Plans - $	_____	_____
Contracts - $	_____	_____

Indicate whether either of the following events have occured by marking the appropriate box and providing the additional requested data:

[ ] Merger Transaction Date of Announcement: _____ Parties to Merger: _____

[ ] Registration of Securities Under the Securities Act of 1933.

Date of Filing: _____ File No.: _____

Instructions

Who Must File: All issuers making an offering of securities pursuant to an employee benefit plan or employment contract in reliance upon the exemption provided by Rule 701, 17 CFR 230.701.

When To File: A notice must be filed no later than 30 days after the first sale of securities pursuant to employee benefit plans or employment contracts which cause aggregate sales to exceed $50,000, and thereafter annually within 30 days after the issuer's fiscal year end. A notice is deemed filed with the U.S Securities and Exchange Commission on the date it is received by the Commission at the address below.

Where To File: U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies Required: Five (5) copies of this notice must be filed with the Commission, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear printed signatures.

Information Required: New filings and annual amendments must contain all information requested. Other amendments need only report the name of the issuer and plan and the information being amended.

Filing Fee: There is no filing fee.

Name(s) of each executive officer, director, general partner, managing partner, beneficial owner of 10% or more of a class of the issuer's equity securities, and promoter of the issuer (name promoter(s) only if issuer was organized within the past five years):

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

(Use blank sheet, or copy and use additional copies of this sheet, as necessary)

The Issuer has duly caused this Notice to be signed by the undersigned duly authorized person.

Issuer (Print or Type):	Signature:	Date:
Name of Signer (Print or Type):	Title of Signer (Print or Type):	

Attention

Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001.)

[FR Doc. 87-1645 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-C